

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

NATHANIEL LIVINGSTON, JR.	:	CASE NO. C-1-02-102
Plaintiff,	:	Judge Hogan
v.	:	
CHARLES LUKEN, et al.	:	MOTION OF DEFENDANT POLICE
Defendants.	:	OFFICER EUBANKS UNDER THE
	:	SOLDIERS' AND SAILORS' CIVIL
	:	RELIEF ACT FOR A STAY OF THIS
	:	PROCEEDING, REQUEST FOR
	:	EXPEDITED REVIEW, AND
	:	MEMORANDUM IN SUPPORT
	:	

Pursuant to the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C., Appendix, Sections 501, *et seq.*, Defendant Police Officer Porter Eubanks III moves the Court to stay this proceeding. As the attached affidavit and Department of the Army orders attest, Officer Eubanks was called up to active duty and is now serving in the United States armed forces.¹ According to the orders, the end date of his service is September 20, 2006. Officer Eubanks is not available to assist in preparing his motion for summary judgment and, if denied, will not be available to attend trial.

50 U.S.C., Appendix, Section 510 authorizes suspending enforcement of civil liabilities against persons in the military service of the United States. The reason is "to enable such persons to devote their entire energy to the defense needs of the Nation." *Id.*

For the foregoing reasons, Officer Eubanks moves the Court to stay this proceeding and requests expedited review of this motion.

¹ This counsel, new to this case, just learned about Officer Eubanks' military service.

Respectfully submitted,

JULIA L. McNEIL (0043535)
City Solicitor

s/ Richard Ganulin

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CERTIFICATE OF SERVICE

I hereby certify on April 28, 2006, a true and accurate copy of the foregoing Motion of Defendant Police Officer Eubanks Under the Soldiers' and Sailors' Civil Relief Act for a Stay of this Proceeding, Request for Expedited Review, and Memorandum in Support was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system. A copy has also been hand-delivered to counsel for plaintiff.

/s/ Richard Ganulin

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Assistant City Solicitor